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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/462,717	04/10/2000	Scott Olive		5432
23446	7590	06/28/2005	EXAMINER	
MCANDREWS HELD & MALLOY, LTD			NGUYEN, KIM T	
500 WEST MADISON STREET			ART UNIT	PAPER NUMBER
SUITE 3400				
CHICAGO, IL 60661			3713	

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SMA

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/462,717	OLIVE, SCOTT	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kim Nguyen	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 08 April 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 106-122 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 106-122 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>12/21/04, 3/8/05, 3/11/05, 5/5/05</u>	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

Examiner acknowledges receipt of the RCE filed with the amendment on 4/8/05 . According to the amendment, claims 108-122 have been added, and claims 106-122 are pending in the application.

### ***Claim Objections***

1. Claims 106, 111, are objected to because of the following informalities:
  - a) In claim 106, line 3, the claimed limitation “the player” should be corrected to “a player”.
  - b) In claim 106, line 5; and claim 122, line 1, the claimed limitation “a player” should be corrected to “the player”.
  - c) In claim 106, line 6, the claimed limitation “the occurrence” should be corrected to “an occurrence”.
  - d) In claim 106, line 22, the claimed limitation “the outcome” should be corrected to “an outcome”.
  - e) In claim 111, line 1, the claimed limitation “said gaming machine” should be corrected to “each of said gaming machines”.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 118 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 118 recites the limitation "the currency denomination" in line 1. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 106-122 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres (US patent No. 6,375,567) in view of Torango (US patent No. 6,592,460).**

As per claim 106, Acres discloses a network gaming machines, each gaming machine include a user interface and accepts different wager amounts (abstract; col. 4, lines 26-31). The method for awarding prizes upon an occurrence a trigger condition comprising making a wager (col. 7, lines 8-18); initiating a first main game (col. 4, lines 37-45); determining the trigger

condition occurring upon an event having a probability (col. 7, lines 12-33); triggering a second game in response to the trigger condition (col. 7, lines 22-27 and col. 10, lines 7-10); activating the user interface during playing the second game; identifying a winning progressive prize; and awarding the winning progressive prize to the player (col. 9, lines 66-67; and col. 10, lines 1-3). Acres does not explicitly disclose determining probability of trigger condition based on the amount of wager and displaying the second game at the particular gaming machine. However, Torango discloses determining probability (the odds) of triggering a bonus event based on the amount of wager (col. 24, lines 8-10) and displaying the second game (the bonus event) at a particular game machine (col. 15, lines 63-66). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to determine probability for triggering a second bonus game based on the amount of wager and to display the second bonus game at a particular gaming machine of Acres as taught by Torango in order to increase winning probability for the player who places large amount of wagers and to facilitate playing the bonus game at the participant's game machine.

As per claim 107, Acres discloses selecting a random number from a predetermined range of numbers (col. 10, lines 54-56); and Torango discloses creating a set of numbers based on the amount of wager (col. 16, lines 11-33)

and indicating the occurrence of the trigger condition if the allotted number matches the selected random number (col. 24, lines 15-19).

As per claim 108, Acres discloses credit wagers (col. 7, lines 9-12).

As per claim 109-110, allotting one number for each bet credit of currency would have been obvious design choice.

As per claim 111-112, since Acres discloses generating a random number from a predetermined fixed range of numbers (col. 10, lines 54-56) and since including a random number generator for generating random numbers would have been old and well known in the art, Acres obviously encompasses teaching including a random number in the game machine.

As per claim 113-116, the limitations stated in claims 113-121 would have been well known to a person of ordinary skill in the art at the time the invention was made.

As per claim 117-121, awarding more than one game as the bonus game, using currency denomination in cents, providing unequal progressive prize values, providing prizes as a fraction of a pool, and providing a second game with higher probability of success than the main game would have been both well known and obvious design choice.

As per claim 122, Acres discloses alerting occurring of the second game prior displaying the second game (col. 9, lines 43-48).

***Response to Arguments***

6. Applicant's arguments with respect to claims 106-122 have been considered but are moot in view of the new ground(s) of rejection.
  
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Nguyen whose telephone number is 571-272-4441. The examiner can normally be reached on Monday-Thursday during business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai, can be reached on 571-272-7147. The central official fax number for the organization where this application or proceeding is assigned is 703-872-9306.



Kim Nguyen  
Primary Examiner  
Art Unit 3713

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Date: June 21, 2005